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SUBJECT: JUSTICE MINISTER HARABIN UNDER FIRE

Classified By: Ambassador Vincent Obsitnik for reasons 1.4 b and d

11. (C) Summary. Justice Minister Harabin, a former Supreme Court Justice and of Meciar's HZDS, is under fire for his reported ties to Baki Sadiki, believed to have been the head of an Albanian drug-smuggling ring in the 1990's. Sadiki escaped prosecution on drug trafficking charges, but was to be expelled from Slovakia until the then-Interior Minister reduced his punishment, enabling Sadiki to remain in Slovakia. In June, former Justice Minister Daniel Lipsic asked Harabin several questions about his alleged involvement in the Sadiki case. Harabin refused to respond in substance, angrily denouncing Lipsic as a "liar, liar." Although Harabin denied knowing Sadiki, the press published July 10 a transcript of a recorded conversation between Harabin and Sadiki that took place in 1994. The transcript makes clear that the two were on familiar and friendly terms. In the face of this evidence, Harabin continues to stonewall. Reaction from the Prime Minister has been muted, and his spokeswoman has characterized the newspaper's reporting as based on untruths. On July 14, however, the National Security Office said it might re-open the issue of Harabin's security clearance. This is not the first time Harabin has drawn fire. He is behind the controversial effort to close the Special Court for corruption and organized crime and to force one justice off the Constitutional Court, and has proposed revisions to the criminal code that would reduce prosecutorial tools and lessen sentences for repeat criminals. In this case, however, the country's top legal official has lied about his ties to a very suspect individual. Recent polls show that only 31 percent of Slovaks trust the courts and the legal system. Such views are likely to be reinforced if PM Fico fails to take action against Justice Minister Harabin. End Summary.

Harabin: Mafia Friendly?

12. (C) On June 19, KDH MP Daniel Lipsic posed several questions to Justice Minister Harabin about his actions in the case of suspected heroin trafficker Baki Sadiki. Calling Harabin "mafia-friendly," Lipsic asked him if he was on friendly terms with Sadiki; if he had provided legal advice to him; and if he had intervened with Interior Minister Hudek to have Sadiki's expulsion overturned. Harabin angrily dismissed Lipsic's questions, saying "liar, liar." According to the Slovak press, Sadiki was believed by Swiss, Norwegian and Polish law enforcement to be the head of an Albanian heroin trafficking ring. The Swiss provided witnesses and a schematic of the ring, with Sadiki's name as head and organizer. Nevertheless, the Slovak courts found the evidence insufficient to convict Sadiki, who served only a few months for illegal possession of weapons and customs violations. According to the press, Sadiki's alleged

accomplices were convicted in other European countries.

13. (C) While Sadiki was under investigation by Slovak authorities in 1994, the prosecutor's office prepared an order for Harabin, then on the Supreme Court, to recuse himself from the case. A transcript of the recorded conversation between Harabin and Sadiki was attached to the order. Before it was issued, however, Harabin recused himself on the basis that he would be "biased." One of Harabin's former colleagues at the Supreme Court confirm that he recused himself, and a former prosecutor confirmed that it had been well known in judiciary circles about the recording of the conversation between Harabin and Sadiki. Despite the friendly and familiar tone of the recorded conversation, Harabin still maintains that he does not know Sadiki and that his decision to recuse himself from the case was based on an acquaintance with Sadiki's wife, before she was married.

The Government's Reaction: Disappointing

14. (C) After the Harabin-Sadiki transcript was published, the Prime Minister indicated that there was no reason that Harabin should go. Fico stated that "if there are further discrepancies in the justice minister's statements regarding events of 14 years ago, the Minister himself must react to them." While downplaying Harabin's apparent misstatement, the PM's office went on the attack against the media. The PM's spokeswoman, Silvia Glendova, said that "the attack of the daily Sme against the Justice Minister is based on untrue information." Prosecutor General Dobroslav Trnka, when asked whether a person who was on a first-name basis with someone charged with drug trafficking should serve as Justice Minister, responded that "Everyone chooses their friend themselves." Interior Minister Kalinak did not respond to questions. For his part, Harabin and his spokesperson repeatedly lashed out at Daniel Lipsic, repeating on multiple occasions that Lipsic's charges would be akin to Harabin saying that Lipsic was a closeted homosexual. Harabin told a reporter that he did not intend to react "to the lies of that old mafia-friendly liar."

The Special Court, Judge Horvath, and the Criminal Code

15. (C) It is not only this most recent episode that has led critics to deem Harabin "mafia friendly," or unfit for the job. Since Harabin took office, he has pursued with single-minded determination the elimination of the so-called Special Court for corruption and organized crime. The aim of the Court, created in 2003, under then-Justice Minister Lipsic -- with strong support from opposition leader Robert Fico -- is to centralize prosecutorial and judicial handling of corruption and organized crime cases so that there is a highly capable and somewhat "out of reach" institution to deal with some of the toughest and most complex crimes. The court is located in Pezinok (close to Bratislava) and houses 13 highly-paid and well-protected judges and a cadre of special prosecutors. The perception among the legal community here is that the Court has proven effective and is not, unlike small regional courts, so susceptible to corruption. When Harabin first moved to close the Court, PM Fico intervened. (Comment: The Embassy raised concerns about closing the Court with both PM Fico and Justice Minister Harabin.) After that, Harabin tried less direct means to undermine the court: he proposed a substantial reduction in judges salaries and has conducted a very public campaign questioning the value and integrity of the court, as well as that of its judges. In March, 46 Members of Parliament, led by the Special Court's other major foe, Vladimir Meciar, filed a petition with the Constitutional Court claiming that the Special Court is unconstitutional and should be shut down. In the wake of the filing, PM Fico has expressed no objections or offered any defense of the Court.

16. (C) Linked to the Constitutional Court's decision on the Special Court are two other controversial issues. Harabin and his colleagues in HZDS have been trying for almost a year

to remove Constitutional Court Judge Juraj Horvath from the Court. Horvath had been convicted in the 1990's of tax evasion, but the crime was subsequently (and legally) expunged from the records. Horvath, who was nominated during the Dzurinda government, informed officials at the time of his prior conviction. Harabin and Parliament have asked President Gasparovic to remove Horvath; Gasparovic has responded that there is no legal basis for him to take such action. In May, 30 MPs led by HZDS, filed a motion with the Constitutional Court to review the President's "inaction." Although others, including Daniel Lipsic, argue that it is not appropriate for a convicted person to serve on the Court, Harabin's and HZDS's motivations are widely thought to be based on other concerns and interests. Many in the legal scene characterize the composition of the Constitutional Court as having a reliable, pro-government bloc of six judges. Were Horvath to go, that could clear the way for an appointment that would give the government a 7-vote majority.

If that were the case, observers speculate that the decision of the Constitutional Court regarding the status of the Special Court would be negative. In June, powerful explosives were found on Horvath's property. A police investigation is ongoing, but Horvath has complained publicly that his requests for protection for his family have been ignored.

17. (C) Justice Minister Harabin withdrew controversial draft legislation amending the criminal code and criminal procedure code pending a decision on the status of the Special Court. The draft legislation has been roundly criticized by members of the law enforcement community -- not to mention opposition officials -- for several provisions which experts say will undermine the fight against corruption and crime. Key law enforcement tools, e.g., sting operations and "crown witnesses" would be banned. In addition, there would no longer be mandatory prison sentences for repeat offenders and penalties, even for serious crimes, would be reduced.

18. (C) Bozena Kotrbancova, a career lawyer serving as the Director of the Department of Supervision of Criminal Justice at the Ministry of Justice confirmed to Pol/Econ Chief in May that, despite her position, Kotrbancova had only seen the draft legislation on the criminal code and procedure once, last fall. She expressed her strong disagreement with the lowering of sentences for violent crimes, the abolition of the "three strikes" principle, and the elimination of crown witnesses and plea bargaining. Kotrbancova shares the opinion of the Special Prosecutors and the Anti-Corruption Police Bureau that the Special Court is needed if Slovakia is to advance in the fight against corruption. Daniel Lipsic found the legislation to be so problematic that he quietly contacted both Interior Minister Kalinak and PM Fico to warn them of the embarrassment it would cause were it to be sent to Parliament. Lipsic said he is working with Kalinak on some changes, and that Harabin's linkage of the legislation to the Special Court decision was a face-saving measure to explain its withdrawal.

19. (C) Conclusion. Many have speculated about the motivation for some of Harabin's actions, particularly with respect to the Special Court. The Special Prosecutor told us in no uncertain terms that he and his colleagues believed that the upcoming deluge of EU funds were ripe for misappropriation and it was his belief that the government wanted to do away with an effective tool for addressing official corruption. Others have speculated that Harabin's party mate, Vladimir Meciar, wants to ensure that neither he and nor his cronies would ever have to face the court. As a result of the Sadiki scandal, Lipsic commented, "A person who has contacts with the boss of the Albanian narcotics mafia should not be even a court employee, not to mention justice minister. It is already clearer to me why Harabin is trying to abolish the Special Court -- because no one can intervene there." The opposition has pledged to launch a recall motion against Harabin, but that would not take place until September, when Parliament reconvenes. In the meantime, the issue will be kept alive by the opposition and by the decision of the

Director of the National Security Office, which is in charge of granting security clearances, to re-open Harabin's security clearance. Prime Minister Fico has stated that fighting corruption is a top priority; he could demonstrate his seriousness by removing Harabin from the bench and standing up for the Special Court. So far, unfortunately, PM Fico, has seemed more interested in demonizing the press over the Harabin affair than addressing the central issue.

OBSITNIK